

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

In re:

**William A. Beyah and
Wadeah Y. Beyah,**

Bankruptcy Case No.: 10-81894

Soc. Sec. Nos. xxx-xx-5914 & xxx-xx-7464
Mailing Address: 5110 Partridge Street, , Durham,
NC 27704-

Debtors.

**William A. Beyah and
Wadeah Y. Beyah,**

A.P. No.: _____

Plaintiffs,

Household Realty Corporation,

Defendant.

VERIFIED COMPLAINT TO VALUE COLLATERAL

The Plaintiffs, above-named, respectfully allege as follows:

1. That this matter is a core proceeding pursuant to 28 U.S.C. § 157, and that the court has jurisdiction pursuant to 28 U.S.C. §§ 151, 157 and 1334.
2. This Complaint was filed, pursuant to 11 U.S.C. §§ 506, 1322(b)(2), 1325(a)(5) and 1327 (c), and in accordance with Bankruptcy Rule 7001, to value their residence for the purpose of determining the secured status of the mortgage claim held by Household Realty Corporation.
3. The Plaintiffs are filed this bankruptcy case on October 19, 2010, seeking protection under Chapter 13 of Title 11 of the United States Code.
4. The Defendant Household Realty Corporation is a corporation and/or a partnership with an office and principal place of business located at C/O Hsbc Mortgage Services, Inc., Post Office Box 21188, Egan, MN 55121-8191. This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§ 157 and 1334 and 11 U.S.C. §§ 506, 1322(b)(2), 1325(a)(5) and 1327 (c).
5. The Plaintiffs own real property located at 5110 Partridge Street, Durham NC 27704. The legal description of the property is as follows:

ALL THAT CERTAIN PROPERTY SITUATED IN THE TOWNSHIP OF CITY OUTSIDE IN THE COUNTY OF DURHAM AND STATE OF NORTH CAROLINA. BEING MORE FULLY DESCRIBED IN A DEED DATED 08/16/1979 AND RECORDED 07/19/1979, AMONG THE LAND RECORDS OF THE COUNTY AND STATE SET FORTH ABOVE, IN DEED VOLUME 1006 AND PAGE 862. The tax map or parcel ID No. is: 0824-04-83-8596

6. Household Realty Corporation holds a first Deed of Trust on such property with an payoff balance, as of the date this case was filed in the amount of approximately \$132,071.46, as indicated on the proof of claim filed on November 17, 2010. This Deed of Trust was recorded on August 29, 2003, in Book 4084 at Page 1, Durham County Registry of Deeds.
7. Household Realty Corporation holds a second Deed of Trust on such property with a payoff balance, as of the date this case was filed in the amount of approximately \$25,996.46. This Deed of Trust was recorded on June 2, 2006, in Book 5232 at Page 510, Durham County Registry of Deeds.
8. The fair market value of the said property is not greater than \$128,975.40.
9. Pursuant to 11 U.S.C. §§ 506, 1322(b)(2), 1325(a)(5) and 1327 (c) of the Bankruptcy Code and In re: Kidd, 161 B.R. 769 (Bankr. E.D.N.C. 1993), the loan with Household Realty Corporation, secured by a second Deed of Trust against the Plaintiffs' said property, is an unsecured claim. In turn, pursuant to 11 U.S.C. § 506(d), the lien securing said loan is void.

WHEREFORE, the Plaintiffs pray the Court find that said claim held by Household Realty Corporation, which is secured by a second Deed of Trust upon said property, to be wholly unsecured, and that said claim should therefore be classified an unsecured claim for the purpose of this Chapter 13 case. The Plaintiffs further pray that the Court order Household Realty Corporation to cancel the said Deed of Trust forthwith upon the completion of the Plaintiffs' Chapter 13 plan and the granting of the Plaintiffs' discharge, and that the Court grant such other and further relief as to the Court seems just and proper.

Dated: June 24, 2011

LAW OFFICES OF JOHN T. ORCUTT, P.C.

/s Edward Boltz

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